



November 15, 2013

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DELIVERED BY E-MAIL

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Dear Sirs,

**OCTOBER 31, 2013 DECISION OF THE BC VEGETABLE MARKETING COMMISSION
CONCERNING VANCOUVER ISLAND FARM PRODUCTS INC. (VIFP) AGENCY
STATUS**

On October 31, 2013 the BC Vegetable Marketing Commission recommended to the BC Farm Industry Review Board (BCFIRB) that VIFP be designated as an agency of the Commission.

The BCFIRB panel has reviewed the Commission's recommendations and intends to resolve this request in a timely manner while balancing immediate business needs with longer term, strategic regulatory requirements. In a regulated sector, significant responsibility comes with being granted specific legislative powers, as outlined in BCFIRB's previous supervisory review directions made on January 7, 2013 regarding, in part, the agency status of VIFP, and V.I.P. Produce Ltd. (VIP).

This letter sets out a short background for context, before making a request for written submissions to support a BCFIRB decision on this matter.

British Columbia
Farm Industry Review Board

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Background

This request is preceded by an extensive history of disputes between central Vancouver Island growers which eventually resulted in a Commission hearing (April 25, 2012) on an agency application by VIFP (storage crops and greenhouse). Following the hearing the Commission recommended VIFP be designated as a greenhouse agency only, but also revoked the agency status of VIP. Several appeals of these decisions were filed with BCFIRB. The appeals were held in abeyance by agreement of all the parties to allow facilitated discussions. The facilitation was not successful and BCFIRB referred the appeals to a supervisory review (November 21, 2012). Following the January 7, 2013 supervisory decision, an appeal panel dismissed the outstanding appeals, noting in an April 9, 2013 decision that BCFIRB had required “the Vegetable Commission to undertake a broader industry review, with ongoing BCFIRB supervision, before making long term decisions with respect to designation of agencies on Vancouver Island”.

BCFIRB’s January 7, 2013 supervisory decision set out specific directions, including temporary agency status for VIFP and VIP pending final recommendations from the Commission before November 30, 2013 on the number and type of agencies, including the regulated product to be marketed that would best serve the Island. The Commission was to provide substantive reasons with its recommendations.

Prior to recommendations being presented to BCFIRB, the Commission received a joint proposal from BC Fresh Vegetables Inc. (BC Fresh) and VIFP that VIFP be granted agency designation to allow it to operate as ‘sub-agency’ of BC Fresh.

BCFIRB’s July 29, 2013 letter in response to the joint proposal set out expectations of the Commission, as the first instance regulator:

1. It is the Vegetable Commission’s responsibility to consider, in consultation with industry stakeholders as appropriate, if and how the proposal may or may not form a transitional step in meeting BCFIRB’s January Supervisory Review directions.
2. BCFIRB appreciates the business planning and related time concerns expressed in the proposal and expect this will be a part of the Vegetable Commission considerations. As a supervisor, BCFIRB’s priority remains to help the industry transition to long-term, strategic solutions while balancing immediate business concerns.
3. If, at any juncture, a BCFIRB decision is requested by the Vegetable Commission, such as those related to agency approval, other supervisory review directions and/or a general supervisory decision, BCFIRB expects the Vegetable Commission will provide full reasoning based on SAFETI.

After a hearing on August 29, 2013, the Commission released its decision on October 31, 2013. The decision recommended VIFP be designated as an agency. The decision did not address the agency status of VIP, nor the number and type of agencies that would best serve the strategic interests of the regulated vegetable industry on the Island in the longer term.

Call for Written Submissions

I confirm that the BCFIRB panel has authorized me to provide the following process instructions.

BCFIRB appreciates that some parties have spent extensive time to-date working to resolve issues with marketing on central Vancouver Island. The BCFIRB panel has some outstanding concerns that must be addressed before issuing a decision on the agency status of VIFP.

The panel is requesting final written submissions from the Commission, VIFP, VIP, BC Fresh and the Island Vegetable Cooperative Association (IVCA) in accordance with the following schedule:

- by November 22, 2013** – initial submissions on the specific points set out below;
- by November 29, 2013** – replies to the November 22 initial submissions; and,
- by December 5, 2013** – final reply from the Commission.

All submissions to BCFIRB are to be copied to the above named organizations.

The initial submission **from the Commission** will include:

- Summary as to the legal appropriateness of a ‘sub-agency’ structure (i.e. does a ‘sub-agency’ structure fall within the British Columbia Vegetable Scheme, Natural Products Marketing Act Regulations and the *Natural Products Marketing (BC) Act*).
- Summary as to the policy appropriateness of a ‘sub agency’ structure.
- Recommendation regarding VIP agency designation. BCFIRB acknowledges this is ahead of the November 30, 2013 deadline. If the Commission is not prepared to make a final recommendation, the Commission is directed to make an initial recommendation, with reasons, as set out in paragraph 72(c) of the January 7, 2013 BCFIRB supervisory decision.

The initial submissions **from VIFP, VIP, BC Fresh and IVCA** will include:

- Using the SAFETI principles¹ as a guide, an outline why the BC Fresh/VIFP proposal does or does not represent sound marketing policy that will “best serve the strategic interests of the regulated vegetable industry on the Island in the longer term”.

Following receipt of all the submissions, the BCFIRB panel will provide the supervisory direction it considers necessary and appropriate in the circumstances.

Submissions must be received by BCFIRB no later than close of business on November 22 and 29 and December 4, 2013, respectively. Submissions will be posted to the [BCFIRB web site](#).

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¹ SAFETI stands for the fundamental principles underlying principles-based regulation – strategic, accountable, fair, effective, transparent and inclusive. More information, including definitions can be found on BCFIRB’s web site under [Governance Initiative](#).

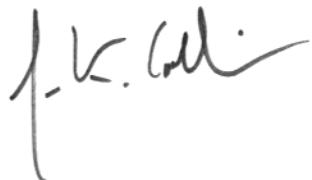
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Any BCFIRB decision on the agency status of VIFP does not absolve the Commission of the responsibility to fulfill the remaining January 7, 2013 directions, including building a vision and direction for Vancouver Island, reviewing and reporting on agency accountability by December 30, 2013, and seeking an amendment to the *British Columbia Vegetable Scheme* to add two independent appointed members to the Commission.

If you have any questions, please contact Wanda Gorsuch at wanda.gorsuch@gov.bc.ca or 250-356-7819.

Yours truly,



Jim Collins
Executive Director

Cc: BCFIRB web site